

REMARKS

In the office action mailed April 5, 2006, claims 1-54 were pending. Claims 3-7 and 41-54 were withdrawn from consideration, and claims 1, 2 and 8-40 stand rejected. In this response, claims 22 and 40-54 have been cancelled, claims 1, 17-19, 21, 23, 25, 26, 28, 29, and 35-37 have been amended. Reconsideration of the present application as amended and including claims 1-21 and 23-39 is respectfully requested.

The drawings were objected to for failing to show every feature of the invention specified in the claims. Specifically, the first and second positions as stated in claims 10 and 25 were asserted to not be shown in the drawings. Attached herewith is a marked up sheet in which proposed changes to Fig. 8 are in red to show the second position as described in the specification. Also enclosed is a replacement sheet of formal drawings in which the proposed changes to Figure 8 have been incorporated. In addition, the specification has been amended to note the showing of the second position in Fig. 8.

Claims 17-19, 22, 26, 35-37 and 40 were objected to for an inconsistency between the preamble and the language in the body of the claims. Claims 22 and 40 have been cancelled, mooted the objection to these claims. Claims 17-19, 26, and 35-37 have been amended to clarify that the human body is not being claimed, but rather a stabilization device that has a length and cross-section sized for positioning through pathways formed at particular locations in the human body. Accordingly, the recitation of the pathway and anatomical structures through which the pathway extends define the environment in which the stabilization device is employed and provide meaning to the structural limitations recited in the claims.

Claims 1, 23, 28 and 29 were rejected under 35 USC §112, second paragraph. Non-narrowing amendments to claims 1, 23, 28 and 29 claims are provided above that address these rejections, and withdrawal of the same is respectfully requested.

Claims 1, 2, 8-22, and 25-40 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 2,699,774 to Livingston. The office action asserts that Livingston discloses “an elongated stabilization device with a longitudinal axis, a length, a cross-section, and a curved configuration (see figure 7 where the device is circular along the longitudinal axis)....” Claims 2 and 25 have been amended to clarify that the stabilization device extends along a longitudinal axis that defines an arc along the length of the device. Livingston, in contrast, discloses a pin that extends along a linear longitudinal axis along the length of the device. In Fig. 7 the device is curved around the longitudinal axis, but there is no disclosure or suggestion of a device with a curved configuration along a longitudinal axis that defines an arc along the length of the stabilization device. Accordingly, Livingston fails to disclose or suggest at least these features in claims 1 and 25, and cannot anticipate these claims. Withdrawal of this basis of the rejection of these claims is respectfully requested.

Pending claims 2, 8-21 and 26-39 depending from claims 1 and 25 are distinguish Livingston at least for the reasons their corresponding base claims distinguish Livingston and for other reasons. Accordingly, withdrawal of the rejection of these claims is respectfully requested.

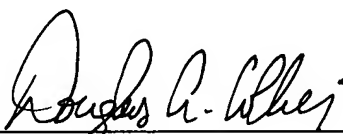
Claim 23 was rejected under 35 USC §103(a) as being unpatentable over Livingston as applied to claim 1, and further in view of U.S. Patent No. 5,908,423 to Kashuba et al. As discussed above, Livingston lacks any disclosure of a stabilization device that includes a curved configuration along a longitudinal axis that defines an arc. There would be no motivation or desire to incorporate the curved drill device in Kashuba et al. with Livingston since the Kashuba

device is bendable along a non-linear path and the linear pin in Livingston could not be inserted along a non-linear path. Accordingly, a prima facie case of obviousness for claim 23 has not been established and withdrawal of this basis of the rejection is respectfully requested.

Claim 24 was rejected under 35 USC §103(a) as being unpatentable over Livingston as applied to claim 1, and further in view of U.S. Patent Application Publication No. 2002/0161368 to Foley et al. Claim 24 depends from claim 1 and is allowable for the reasons provided above. Accordingly, withdrawal of this basis of the rejection is respectfully requested.

Reconsideration of the present application as amended and including claims 1-21 and 23-39 is respectfully requested. The application is believed in condition for allowance, and a Notice of Allowance is hereby solicited. The Examiner is welcome to contact the undersigned to resolve any outstanding issues with respect to the present application.

Respectfully submitted:

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OCCIPITAL AND CERVICAL STABILIZATION
SYSTEMS AND METHODS

Serial No. 10/795,880; Filed March 8, 2004

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ANNOTATED SHEET (1 of 1)

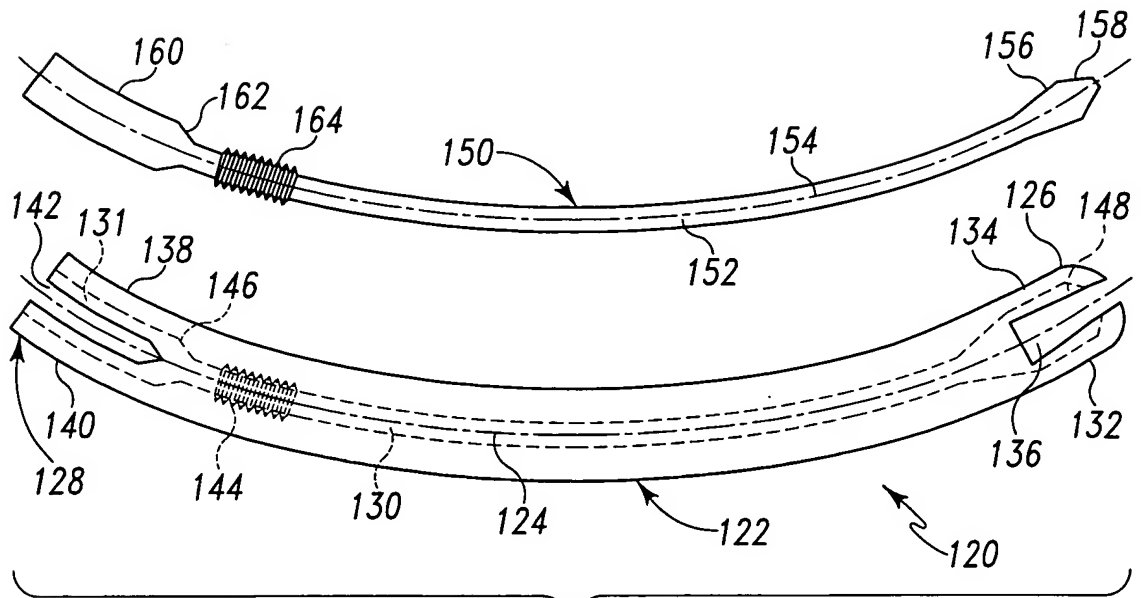


Fig. 7

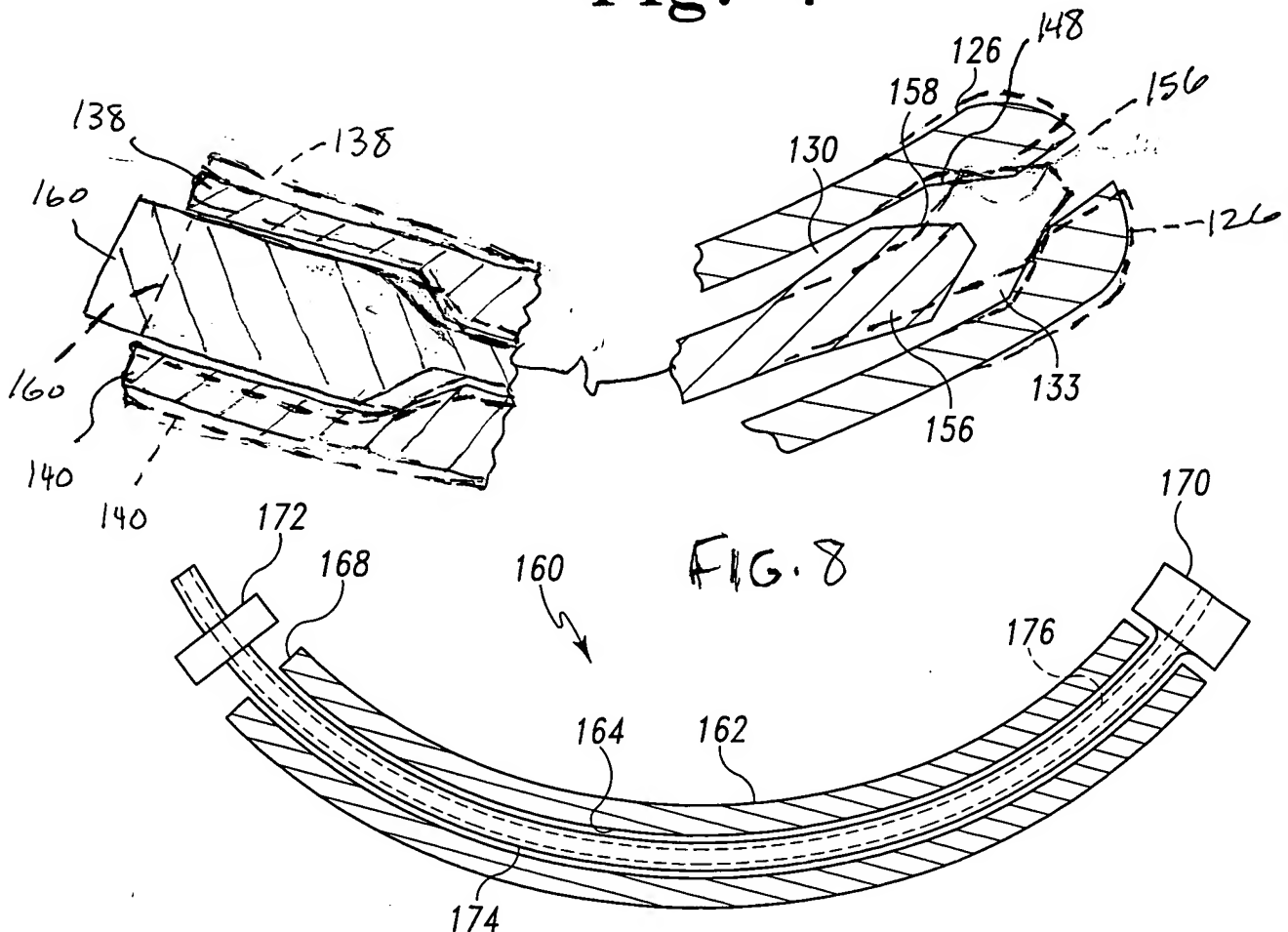


Fig. 9